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By: **Senator Giannetti**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Presentment of Defendant before Judicial Officer**

3 FOR the purpose of modifying the factors that a court considers in deciding the  
4 voluntariness and admissibility of a confession under certain circumstances;  
5 prohibiting a court from giving greater weight to the State's delay in bringing a  
6 defendant before a certain judicial officer than any other factor the court  
7 examines in determining the voluntariness of a confession if the confession is  
8 obtained within a certain period of time after arrest; establishing a rebuttable  
9 presumption that any delay in the defendant being taken by the State before a  
10 judicial officer did not affect the voluntariness of a confession if the defendant is  
11 taken before a judicial officer within a certain period of time; and generally  
12 relating to a defendant being taken by the State before a judicial officer.

13 BY repealing and reenacting, with amendments,  
14 Article - Courts and Judicial Proceedings  
15 Section 10-912  
16 Annotated Code of Maryland  
17 (2002 Replacement Volume and 2003 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Courts and Judicial Proceedings**

21 10-912.

22 (a) A confession may not be excluded from evidence solely because the  
23 defendant was not taken before a judicial officer after arrest within any time period  
24 specified by Title 4 of the Maryland Rules.

25 (b) (1) [Failure] SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS  
26 SUBSECTION, FAILURE to strictly comply with the provisions of Title 4 of the  
27 Maryland Rules pertaining to taking a defendant before a judicial officer after arrest  
28 is only one factor, among others, to be considered by the court in deciding the  
29 voluntariness and admissibility of a confession.

1           (2)     IF A CONFESSION IS OBTAINED FROM A DEFENDANT WITHIN 24  
2 HOURS AFTER ARREST, ANY DELAY IN THE DEFENDANT BEING TAKEN BY THE STATE  
3 BEFORE A JUDICIAL OFFICER AFTER ARREST MAY NOT BE GIVEN ANY GREATER  
4 WEIGHT BY THE COURT THAN ANY OTHER FACTOR THAT THE COURT EXAMINES IN  
5 DETERMINING THE VOLUNTARINESS OF THE CONFESSION.

6           (3)     IF A DEFENDANT IS TAKEN BY THE STATE BEFORE A JUDICIAL  
7 OFFICER WITHIN 12 HOURS AFTER ARREST, THERE IS A REBUTTABLE PRESUMPTION  
8 THAT ANY DELAY IN THE DEFENDANT BEING TAKEN BEFORE A JUDICIAL OFFICER  
9 AFTER ARREST DID NOT AFFECT THE VOLUNTARINESS OF THE CONFESSION.

10     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11     October 1, 2004.